

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JAMES EVANS,

Plaintiff,
-against-

THE CITY OF NEW YORK, et al.,

**NOTICE OF PLAINTIFF'S
ACCEPTANCE OF OFFER
OF JUDGMENT**

12 CV 1 (MKB) (MDG)

Defendants.

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Please take notice that plaintiff accepts the annexed offer of judgment, dated June 19, 2012.

DATED: June 20, 2012
Brooklyn, New York



RICHARD J. CARDINALE
Attorney for Plaintiff
26 Court Street, Suite 1815
Brooklyn, New York 11242
(718) 624-9391

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JAMES EVANS,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER
MICHAEL GIUDICE, shield # 13041, POLICE OFFICER
RICHARD VARGAS, shield # 29756,

**RULE 68
OFFER OF JUDGMENT**

12CV0001 (MKB) (MDG)

Defendants.

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Pursuant to Rule 68 of the Federal Rules of Civil Procedure, defendant City of New York hereby offers to allow plaintiff James Evans to take a judgment against it in this action for the total sum of Ten Thousand and One (\$10,001) Dollars, plus reasonable attorneys' fees, expenses, and costs to the date of this offer for plaintiff's federal claims.

This judgment shall be in full satisfaction of all federal and state law claims or rights that plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendant City or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

This offer of judgment may only be accepted up to and including July 3, 2012.

This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by any defendant, or any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that plaintiff has suffered any damages.

Acceptance of this offer of judgment will act to release and discharge defendant City; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by plaintiff in the above-referenced action.

Acceptance of this offer of judgment also will operate to waive plaintiff's rights to any claim for interest on the amount of the judgment.

Plaintiff James Evans agrees that payment of Ten Thousand and One (\$10,001) Dollars within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless plaintiff received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If plaintiff James Evans is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date plaintiff submits to Counsel for Defendant a final demand letter from Medicare.

By acceptance of this Rule 68 Offer of Judgment, plaintiff agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff further agrees to hold harmless defendants regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

The judgment shall contain and recite the terms and conditions set forth herein.

Dated: New York, New York
June 19, 2012

MICHAEL A. CARDODOZO
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City of New York
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Vargas*
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By:



Joshua J. Lax
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To: VIA HAND DELIVERY
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